

**JURISDICTION:** OKLAHOMA TAX COMMISSION - DECISION  
**CITE:** 98-01-06-020 / NOT PRECEDENTIAL  
**ID:** P9700036  
**DATE:** 01-06-98  
**DISPOSITION:** DENIED  
**TAX TYPE:** SALES AND WITHHOLDING  
**APPEAL:** NO APPEAL TAKEN

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That Protestants, through MR. X and MR. Z, a partnership, leased and operated a business known as THE XYZ COMPANY in ANYTOWN, Oklahoma.
2. That Protestants were the general partners of the partnership.
3. That on December 20, 1996, the Division caused to be issued proposed sales tax assessments against Protestants for the period of April 1, 1996 through November 30, 1996. That the assessments proposed a total estimated amount due of \$931.74, inclusive of tax in the amount of \$800.00, interest accrued through January 31, 1997, in the amount of \$51.74, and penalty in the amount of \$80.00.
4. That on December 20, 1996, the Division caused to be issued proposed withholding tax assessments against Protestants for the period of October 1, 1995 through September 30, 1996. That the assessments proposed a total estimated amount due of \$1,060.60, inclusive of tax in the amount of \$800.00, interest accrued through January 31, 1997, in the amount of \$80.60, and penalty in the amount of \$180.00.
5. That Protestants filed a timely protest to the proposed assessments, alleging that the sales of the business were wholesale to retail plant businesses; that no sales were made after January 10, 1996; that the business had no employees after November, 1995, except for Protestants who worked and closed out the business for no pay; and that the business was discontinued in January, 1996.
6. That the amount in controversy is \$1,992.34.

### CONCLUSIONS OF LAW

WHEREFORE, premises considered, the undersigned concludes as a matter of law that the Tax Commission is vested with jurisdiction over the parties and subject matter of this action, 68 O.S. 1991, § 207; that a proposed assessment is presumed correct and the taxpayer bears the burden of showing that it is incorrect, and in what respect,

***Enterprise Management Consultants, Inc. v. Oklahoma Tax Commission***, 768 P.2d 359 (Okl. 1988); that the burden of proving that a sale is not a taxable sale is on the person who made the sale, 68 O.S. 1991, § 1365(C); and that Protestants have wholly failed to come forward with any evidence whatsoever to prove the allegations of their protest or to show they are entitled to the relief requested, Rule 710:1-5-47 of the *Oklahoma Administrative Code*.

### DISPOSITION

THEREFORE, based on the above and foregoing findings and conclusions, it WAS DETERMINED that the protest of Protestants, MR. X and MR. Z, be denied. It WAS further DETERMINED that the amount in controversy, plus any additional accrued and accruing interest, be fixed jointly and severally as the deficiency due and owing.

### OKLAHOMA TAX COMMISSION

**CAVEAT:** This decision was **NOT** deemed precedential by the Commission. This means that the legal conclusions are not generally applicable or are limited in time and/or effect. Non-precedential decisions are not considered binding upon the Commission. Thus, similar issues may be determined on a case-by-case basis.